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Customer Number

Patent Case No.: 47966.12.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	NATALE SPECIALE		
Application No.:	10/538,547	Group Art Unit:	1792
Filed:	June 10, 2005	Examiner:	Sylvia R. MacArthur
Title:	SUPPORT SYSTEM FOR A TREATMENT APPARATUS		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This communication is filed in response to the office communication mailed January 10, 2008. In that office communication, the Examiner indicated that the application contained claims directed to two patentably distinct species. The species identified by the Examiner are as follows:

Species I: Claims 21-27 and 31-42; and

Species II: Claim 43.

Examiner indicated that the species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the special technical features is how the chamber [i]s defined between the support and base element.

It is to be understood that the election in the present response is for the sole purpose of the Examiner's initial search and examination, and that upon allowance of a generic claim, all the species encompassed by that claim will then be examined. M.P.E.P. § 809.02(c).

In responding to this Restriction Requirement, even with traverse, Applicant is required to elect one species or invention, along with the identification of the claims encompassing the elected species or invention. Accordingly, Applicant elects with traverse Species I, encompassing claims 21-27 and 31-42.

Applicant traverses this species restriction as Applicant feels that no serious burden on the Examiner exists. If the search and examination of an entire application can be made without serious burden, then it must be examined on the merits. M.P.E.P. §803. The subject matter of both Species I and II, as designated by Examiner, are believed sufficiently related by which a thorough search of the subject matter of any one species would encompass a search of the subject matter of all the species.

Further to the above argument, Applicant respectfully asserts that claim 21 is generic with respect to claim 43. In reviewing claims 21 and 43, the distinctive text in claim 21 as compared to claim 43 is within the following portion of claim 21: “said means comprising a plurality of channels each of which is defined between the element and the support and is in communication with the chamber, and each of which has a shape and size...”. Conversely, the distinctive text in claim 43 as compared to claim 21 is within the following portion of claim 43: “said means comprising a plurality of channels each of which is defined between the element and the support, each of the channels extending from the chamber and terminating short of an outer groove of the stationary base element, each channel having a shape and size...”.

From the above, Applicant asserts that the following text of claim 21, “a plurality of channels each of which...is in communication with the chamber”, would be applicable to the following text of claim 43, “a plurality of channels..., each of the channels extending from the chamber”. In particular, channels extending from a chamber (in claim 43) would fall under the scope of channels in communication with said chamber (in claim 21). In addition, claim 43 has the further feature of “each of the channels...terminating short of an outer groove of the stationary base element”. As such, claim 43 has at least all the features of claim 21, but not vice versa. As a result, Applicant respectfully asserts that claim 43 falls under the same genus of claim 21. Accordingly, a thorough search of the art with respect to claim 21 and corresponding allowance of claim 21 would deem claim 43 allowable as well without further searching of the art.

In light of the above reasons, Applicant respectfully requests examination on the merits of both Species I and II, not just those of Species I, to avoid duplicative examination by the Patent Office and unnecessary delay and expense to Applicant.

If the Examiner feels that prosecution of the present invention can be advanced by a telephone interview, then the undersigned would welcome a call at the phone number below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 061910.

Respectfully submitted,

Dated: _____

2/8/08



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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.